## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA BRUNSWICK DIVISION

BRUCE BERNARD TOWNSEND,

Petitioner,

VS.

CIVIL ACTION NO.: CV211-160

ANTHONY HAYNES, Warden,

Respondent.

## ORDER

Petitioner Bruce Bernard Townsend ("Townsend") filed an Objection to the Magistrate Judge's Report dated January 25, 2012, which recommended that Townsend's 28 U.S.C. § 2241 petition be dismissed. In his Objection, Townsend argues that his claims are brought pursuant to the Privacy Act and that they are appropriately brought pursuant to § 2241.

In his petition, Townsend alleges that his temporary transfer to the custody of the State of Georgia was in violation of the Interstate Agreement on Detainers Act ("IADA") and the due process clause of the Fifth Amendment. Additionally, he alleges that the Bureau of Prisons violated the Freedom of Information Act ("FOIA") by refusing to provide him with copies of certain detainer records relating to his temporary transfer to state custody. The Magistrate Judge determined that success on the merits of these claims would not result in expedited release from confinement and, therefore, that Townsend had failed to state a claim for relief under § 2241. After an independent and de novo review of the record, the undersigned concurs with the Magistrate Judge's Report and Recommendation.

In his Objection, Townsend cites to Perry v. Bureau of Prisons, 371 F.3d 1304 (11th Cir. 2004), to support his contention that his claims should not be dismissed. Perry filed a complaint against the Bureau of Prisons for intentionally transferring him pursuant to inaccurate prison records. The Court of Appeals for the Eleventh Circuit held that the district court mischaracterized Perry's claim as a claim that should be brought pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), and that Perry had stated a claim under the Privacy Act. Perry, 371 F.3d at 1305. Perry did not file a petition pursuant to § 2241, and the Eleventh Circuit did not discuss the availability of a § 2241 petition to address Perry's claims. As a result, Perry does not support Townsend's assertion that his claims are properly brought pursuant to § 2241. If Townsend wishes to attempt to state a claim under the Privacy Act and Perry, he must do so in the appropriate manner.<sup>1</sup>

Townsend's Objection to the Magistrate Judge's Report and Recommendation is without merit and is **overruled**. The Report and Recommendation of the Magistrate Judge is adopted as the Opinion of the Court. Townsend's 28 U.S.C. § 2241 petition is **DISMISSED** for failure to state a claim upon which relief may be granted. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this & day of

2012.

LISA GODBEY WOOD, CHIEF JUDGE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF GEORGIA

<sup>&</sup>lt;sup>1</sup> The Court makes no statement regarding the efficacy of such a claim.